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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3641 OF 2007

Sandeep Satyanarayan Tiwari .. Petitioner

V/s

State of Marashtra .. Respondent

Mr. J. Shekhar for the petitioner.

Mr.K.V. Saste, A.P.P. for the State.

CORAM : D.G. KARNIK, J.

DATE : 30TH NOVEMBER 2007

P.C. :

1. Heard the learned counsel for the petitioner and the learned A.P.P. for the State.

2. By this application under section 438 of the Cr.P.C., the petitioner seeks anticipatory bail in respect of an offence bearing C.R. No.103/2007 registered with Ichalkaranji Police Station, punishable under sections 454, 457, 380 read with 34 of the I.P.C.

2. According to the petitioner, goods in question belonged to the petitioner. The goods were hypothecated

to the bank and, therefore, the bank took possession of the goods under section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. While the goods were in custody of the bank, they were stolen and the petitioner is alleged to have committed the theft.

3. Learned counsel for the petitioner submitted that the goods belonged to the petitioner himself and the petitioner cannot be held to be guilty of theft. The offence of theft is against dispossession from lawful possession of movables. Therefore, the contention that the petitioner cannot be held guilty of committing theft, prima facie, is not sustainable.

4. Investigation is in progress. The goods are yet to be recovered. In the circumstances, the custodial interrogation of the petitioner appears to be necessary. It would not be appropriate to grant anticipatory bail at this stage pending investigation. In the circumstances, the application is rejected. The petitioner is granted time till 3rd December 2007 for surrendering.

(D.G. KARNIK, J.)